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acts, of course. But it is only the part of good sense that she should also clear up our misunderstanding, that we may realize our ambition to keep out of this war and to maintain that peace which accompanies dignity, honor, and justice.

February 12, 1917.

### AS TO "OVERT ACTS"

**T**ODAY the most important and thought-provoking words in our American speech are the words "overt acts." To define the word "overt," as employed by the President in his speech before the Congress, February 3, is not easy. The President said:

"Notwithstanding this unexpected action of the German Government, this sudden and deeply deplorable renunciation of its assurances, given this government at one of the most critical moments of tension in the relations of the two governments, I refuse to believe that it is the intention of the German authorities to do in fact what they have warned us they will feel at liberty to do. I cannot bring myself to believe that they will indeed pay no regard to the ancient friendship between their people and our own, or to the solemn obligations which have been exchanged between them, and destroy American ships and take the lives of American citizens in the willful prosecution of the ruthless naval program they have announced their intention to adopt. *Only actual overt acts* on their part can make me believe it even now."

From this language it might be fair to infer that the President means by overt acts the destruction of American ships and the killing of American citizens. And yet the point which the President makes is that only actual overt acts on the part of the Central Powers can convince him that Germany plans to destroy American ships and kill American citizens. This is capable of being interpreted that there are other acts than the sinking of American ships and the killing of American citizens which may be interpreted as overt. And this is well within the accepted meaning of the word, for, as commonly defined, an overt act is an open or manifest act from which criminality is inferred, and, like all moral actions, it must be measured by the intention or motive behind the act.

One naturally and anxiously wonders what interpretation the President will find it necessary to apply in the premises. If an American ship carrying contraband is sunk after visit and search, would that be an overt act? If an American ship carrying contraband is captured and sunk without an investigation by a prize court, would that be an overt act? Or must it be necessary that lives shall be lost in either case before the act can be said to be overt? If a belligerent vessel carrying American non-contraband goods is sunk and the goods destroyed, would that be an overt act? If a belligerent

ship carrying American citizens is sunk and the American citizens saved, would that be an overt act? If an American ship carrying contraband is sunk within the restricted zone and without notice, but without the loss of life, would that be an overt act? If, added to this last supposititious case, American lives are lost, would the act then become overt? If a belligerent merchant vessel, with no contraband aboard, but carrying United States mails, is sunk after notice, and that without loss of life, would that be an overt act?

As a matter of fact, we are not clear upon these matters. The word overt does not carry with it its own explanation. It may be fair to assume that the President means that if any American ship free of contraband is sunk, with or without notice, that it would be counted among the *casus belli*. The same would be true if an American ship carrying contraband is sunk without notice. It would also be an overt act, we may assume, if a belligerent merchant vessel carrying American citizens is sunk without notice, especially if American lives are lost.

The situation is that the word overt can be interpreted at present only by the man who so conspicuously used it, namely, the President of the United States. As a matter of fact, every overt act conceivable has been committed by the Central Powers, and many of these overt acts have been committed by the Entente Allies. On the last analysis the word will be defined, and the question of peace or war decided, by the collective judgment and emotion of the American people, for the President of the United States is day by day undoubtedly the very embodiment of that judgment and emotion.

What, therefore, are we to believe as a matter of duty?

### A MATTER OF DUTY

**I**T is the duty of the United States Government, by methods perfectly familiar to it, to leave no stone unturned in its efforts to obtain from the Central Powers a modification of the submarine program. In the meantime it is our duty to interpret, dispassionately and in accordance with facts, the plans and policy of the Imperial German Government. It is not true, for example, as Count von Bernstorff was careful to explain, that that government intends to restrict our commerce to a single ship a week. It is not true that the Central Powers purpose to go back to unrestricted submarine warfare, with no reservation for the safety of innocent neutral vessels. It is not even true that Germany can be convicted of breaking a promise alleged to have been set forth in her note of May 4, 1916.

It is true that Germany, in this note of May 4, did say that orders had been given to her submarine forces

to conduct the submarine warfare in accordance with the general principles of visit and search, and the destruction of merchant vessels recognized by international law. She made the further concession of adapting methods of submarine war to the interests of neutrals. But the following statement in this German note, and quoted by the President in his address to the Congress, cannot with justice be taken from the context and made to stand alone. The familiar words are:

"In accordance with the general principles of visit and search and the destruction of merchant vessels, recognized by international law, such vessels, both within and without the area declared a naval war zone, shall not be sunk without warning and without saving human lives unless the ship attempt to escape or offer resistance."

Following this statement, it should be noted, the German Government proceeded in the same note to make certain qualifications as, for example:

"Should steps taken by the Government of the United States not attain the object it desires, to have the laws of humanity followed by all belligerent nations, the German Government would then be facing a new situation, in which it must reserve to itself complete liberty of decision."

Our simple point is that it is a matter of duty to adjudge the present situation upon the facts. As we understand it, Germany is attempting at the present time to create a restricted blockade zone around her enemies, with a lane of safety for innocent neutral commerce. The difference between Germany's behavior and England's, for example, is that she is establishing her blockade by means of submarines, which involves danger to life as well as to property. This situation is bad enough, no doubt, and may soon lead to an intolerable condition; but it seems to us that the candid interpretation of the facts should be thrown into the scale in favor of peace along with such substantial modifications as the German Government may yet be led to make in its program. An impromptu conference of the diplomatic representatives of the neutral powers in Washington, with a view to making suggestions to the German Government relative to concessions, is not an unreasonable method of procedure.

Our personal view is that neutral ships might well remain unarmed. Merchant ships free of contraband should be absolutely inviolate. Ships carrying contraband may be captured or destroyed, but only after the safety of those on board has been secured. It is a matter of international duty that there should be no restrictions on the number of neutral ships. Neither should there be any distinction between freighters and passenger ships. We see no objections to convenient lanes of safety through blockaded zones, so long as the zones are really

blockaded. We believe that neutral ships should be plainly marked in such a way that they can be readily distinguished. We are willing to go farther and agree that the locations of the lanes of safety and the character of the markings shall be determined by agreement between the belligerent and neutral powers.

Enemy ships, unarmed and carrying no contraband, may be captured or destroyed only after the safety of those on board has been secured; but, of course, all armed enemy ships and all ships carrying munitions of war have a military status.

We do not profess to be military experts. We do not believe that there can be any law of war. But war is today a tremendous fact. Our hope is that by the application of proper patience and wisdom we may interpret our duty in the light of justice.

## WHAT ARE WE GOING TO DO?

ARE we also to be dragooned at the last into this war? Are we going to ignore our duty to keep our own heads at all hazards? Are we going to accept a crazy challenge to join in a worse than savage duel threatening the very life of Europe? Are we to forget our traditional loathing of the carnivorous demon of war? Must we, too, return to the lawless state of tooth and claw, and join the wild menagerie of killers? Shall we, like those others, subscribe to the faith that blowing the brains out of unoffending boys is the only means of achieving that justice for which states exist? Must we send our lads to the trenches of Europe, to wallow there in blood, because of a situation which we did nothing to create? Shall we dampen so soon our enthusiasm for President Wilson's attempt to "speak for the silent mass of mankind"? Are we to enter "entangling alliances" and "competitions of power," to get caught in "a net of intrigue and selfish rivalry," and to disturb our own affairs with "influence intruded from without," against all of which President Wilson so eloquently set himself in his great address to the Senate but a few days ago?

Let us dare to hope and to believe that these things need not be. The President himself refuses to believe that Germany will ignore the ancient friendship between her people and our own. We can do no less. The President is thinking only of protecting our seamen and our people in the prosecution of their peaceful and legitimate errands on the high seas. This is not war. Germany wishes no war with this country. We wish no war with Germany. There has been no threat of war from either side. Under such circumstances it ought not to be impossible to avert war. The prayer from the heart of every American of good will is that there may be no such war.

The hour is fateful. But if we remember our imme-